

ENTERED

March 29, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

BENIGNO DE LA CRUZ

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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Case No. 2:08CR00318-SS-003

ORDER ON THE UNITED STATES SENTENCING GUIDELINES
AMENDMENT § 782

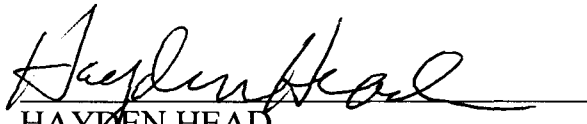
The United States Sentencing Commission has decided to grant retroactive application of Amendment § 782 to the United States Sentencing Guidelines. U.S.S.G. § 2D1.1(c); U.S.S.G. § 1B1.10. This Amendment reduces by two levels the base offense assigned in the Drug Quantity Table, resulting in lower guideline ranges for most drug trafficking offenses. Only inmates whose sentence calculation used the Drug Quantity Table are eligible for the reduction under Amendment § 782.

Upon motion of the inmate, the Director of the Bureau of Prisons, or the Court's own motion, the Court may consider a reduction in the term of an imposed sentence consistent with the factors set forth in 18 U.S.C. § 3553(a) and applicable policy statements issued by the United States Sentencing Commission. Because the Court is authorized and expected to exercise its discretion, eligible inmates will not automatically receive a sentence reduction under the amended sentencing guidelines. The Court is not required to appoint counsel for the purpose of asking for a retroactive reduction. United States v. Whitebird, 55 F.3d 1007, 1011 (5th Cir. 1995); United States v. Robinson, 542

F.3d 1045, 1052 (5th Cir. 2008). Eligible inmates are not entitled to a hearing on consideration of the retroactive reduction. United States v. Edwards, 156 F.3d 182 (5th Cir. 1998).

The Court has made a preliminary decision in your case that you should not receive a sentence reduction under Amendment §782. The Court considered post-conviction information in making its decision. You have forty-five (45) days to respond in writing and submit in writing any additional information regarding your case before the Court makes a final decision. You may also request in writing notice of the post-conviction information considered by the Court and respond in writing within forty-five days.

ORDERED this 29 day of March 2016.


HAYDEN HEAD
SENIOR U.S. DISTRICT JUDGE